

UNITED STATES OF AMERICA :
 : Case No. 1:16-CR-075
 :
 vs. : (Judge Kane)
 :
 CHRISTOPHER MARK HEATH, :
 Defendant :
 :

TRANSCRIPT OF JURY TRIAL PROCEEDINGS
VOLUME 3
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BEFORE THE HONORABLE YVETTE KANE
UNITED STATES DISTRICT COURT JUDGE
MAY 10, 2017; 11:30 A.M.
HARRISBURG, PENNSYLVANIA

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 Proceedings recorded by mechanical stenography; transcript
 produced by computer-aided transcription.

1 *(Jury deliberates from 9:30 a.m. to 11:30 a.m.)*

2 *THE COURT:* Good morning, counsel, jurors. Ms. Weida
3 tells me there's a verdict. Would the foreperson tender the
4 verdict slip, please. Ms. Weida, would you publish the
5 verdict, please.

6 *COURTROOM DEPUTY:* Count 1, conspiracy to manufacture,
7 distribute, and possess with the intent to manufacture and
8 distribute marijuana. On the charge of conspiracy to
9 manufacture, distribute, and possess with the intent to
10 manufacture and distribute marijuana, we, the jury, unanimously
11 find Defendant Christopher Mark Heath guilty.

12 Do you unanimously find that the government proved
13 beyond a reasonable doubt that the weight of the mixture or
14 substance containing marijuana in the conspiracy to
15 manufacture, distribute, and possess with the intent to
16 manufacture and distribute marijuana which you have found was
17 100 kilograms or more? Yes.

18 Count 2, on the charge of conspiracy to commit money
19 laundering, we, the jury, unanimously find Defendant
20 Christopher Mark Heath guilty.

21 Count 18, on the charge of manufacture, distribution,
22 and possession with the intent to manufacture and distribute
23 marijuana, we, the jury, unanimously find Defendant Christopher
24 Mark Heath guilty.

25 On the charge of possession, use, and carrying a

1 firearm in furtherance of and during and in relation to a drug
2 trafficking crime, we, the jury, unanimously find Defendant
3 Christopher Mark Heath guilty.

4 Do you unanimously find that the government proved
5 beyond a reasonable doubt that Defendant Christopher Mark Heath
6 either possessed a firearm in furtherance of a drug trafficking
7 crime or used and carried a firearm during and in relation to a
8 drug trafficking crime or both? The answer is possession of a
9 firearm in furtherance of a drug trafficking crime.

10 *THE COURT:* Counsel, do you wish to have the jury
11 polled?

12 *MS. ULRICH:* No, Your Honor.

13 *THE COURT:* Very well. Jurors, this concludes your
14 service to the Middle District of Pennsylvania. The lawyers
15 and the parties are grateful for your attention and your
16 participation. I excuse you now with the thanks of the court
17 and the parties. Ms. Weida will escort you.

18 *(Jury leaves courtroom.)*

19 *THE COURT:* Counsel, I have a presentence report
20 disclosure date of July 5th, 2017, and a suggested sentencing
21 date of August 16th, 2017. Does that fit with counsel's
22 calendars?

23 *MS. ULRICH:* Yes, Your Honor.

24 *MS. TAYLOR:* Yes, Your Honor.

25 *THE COURT:* All right. Is there anything else for the

1 matter?

2 *MS. TAYLOR:* Yes, Your Honor. In the indictment,
3 there is a forfeiture count. I have had an opportunity to
4 speak with defense counsel. I believe they are not contesting
5 that for today's purposes, and we will file the preliminary
6 motion with the court after today's proceeding.

7 *THE COURT:* Ms. Ulrich.

8 *MS. ULRICH:* That's correct.

9 *THE COURT:* All right. Anything further?

10 *MS. TAYLOR:* In addition, Your Honor, we are asking
11 that the defendant be remanded at this time given the jury's
12 verdict. He is facing a five-year mandatory on Count 1 and a
13 consecutive five-year mandatory on Count 19.

14 *MS. ULRICH:* Your Honor, Mr. Heath has been on
15 pretrial supervision since March 24th of 2016 without a single
16 violation. He's been living in Ohio with his wife, Tatum, and
17 his two daughters, who are 14 and 8. He's very involved in
18 their lives. He's a softball coach. They do a lot of other
19 activities.

20 I actually have family members in the courtroom who
21 can testify on his behalf, his mother, Lori Coogan, is here,
22 his father Earl Heath is here, his stepmother Mary Heath is
23 here. They all live in Ohio, I think within close proximity.
24 In fact, the house they live in, 331 Park Avenue in Ohio, I
25 think is owned by his mother and they rent from his mother.

1 Beyond that, Your Honor, he has a job. And, actually,
2 I have an email from his employer. I don't have copies for
3 everyone. It was an email from his employer, Jerry Pickens.
4 He is working construction. He's working about 30 hours a
5 week. He's renovating kitchens and bathrooms. He's been drug
6 tested two times a month. I understand they've all been
7 negative. He went to drug and alcohol counseling. He
8 currently goes to psychological counseling.

9 He has a hearing in two weeks in California because
10 there are pending charges out there that arose as a result of
11 what happened here in Pennsylvania, so he needs to go to
12 California to take care of that. I'll pass it up for the
13 court.

14 *THE COURT:* What are the pending charges in
15 California?

16 *MS. ULRICH:* They're gun charges out there, Your
17 Honor, I think unlawful guns, possession of unlawful guns in
18 California. Right? I don't know the exact charge.

19 *THE DEFENDANT:* It's possession of an unregistered
20 assault weapon. It was a work weapon that wasn't correctly
21 registered at the time when I was a peace officer, and I'm
22 entering a guilty plea when I go there on that count, Your
23 Honor.

24 *MS. ULRICH:* And, Your Honor, I would point out he
25 hasn't missed a single hearing in this matter, and it's been

1 over a year that he's been on pretrial supervision. He's
2 always appeared for all his hearings.

3 He doesn't have a prior record. This is a gentleman
4 that there's no doubt in my mind will show up for sentencing
5 and take whatever consequences that will flow from this case.
6 But if the court wants, his mother and father are here and both
7 ready and willing to testify on his behalf, if that's
8 necessary.

9 MS. TAYLOR: Well, Your Honor, while all those
10 arguments would be appropriate at an initial detention hearing
11 and hearing from the defendant's parents might be appropriate
12 there, unfortunately, the standard is different under Title 18,
13 3143(a)(2), and I believe that's what would control at this
14 point now that the defendant has been convicted of these
15 particular offenses. And that particular section indicates
16 that the court shall remand the defendant unless certain things
17 occur, and I don't believe those things are applicable here.

18 MS. ULRICH: The court has discretion, and they are
19 applicable. And the court can consider all the factors I've
20 just mentioned to this court, including the fact that all the
21 co-defendants are out on bail, Tyler Long, Ramona Long, and
22 Ryan Falsone. They're all out on bail.

23 Granted, they're not facing the five-year consecutive,
24 but to me, it's all the same case. They're all out on bail.
25 He's been out on bail and has not violated this court's

1 confidence in any way, shape, or form. In fact, he's been
2 going to counseling to try to deal with this. And he moved to
3 Ohio to be closer to his family so he could set up his wife and
4 children when he goes to jail.

5 *THE COURT:* Counsel, under the circumstances, I do
6 believe that the defendant should be remanded. That is the
7 standard. I don't find anything exceptional in the case that
8 makes me comfortable that he is going to appear. He's
9 convicted with two mandatory counts. That's not true for the
10 co-defendants.

11 And I know that there were detention hearings, I
12 believe before Judge Carlson, and that was his judgment, that
13 they would remain at large. I don't know even what their
14 status is at this point. Have they entered guilty pleas?

15 *MS. TAYLOR:* The co-defendants, Your Honor?

16 *THE COURT:* Yes.

17 *MS. TAYLOR:* They have.

18 *THE COURT:* All of the co-defendants?

19 *MS. TAYLOR:* All of them have, Your Honor.

20 *THE COURT:* All right. Well, the defendant, convicted
21 at trial by a jury, should be remanded to the custody of the
22 Bureau of Prisons, should be remanded to the marshal, and
23 that's my judgment.

24 *MS. ULRICH:* And that's fine. I understand. It's not
25 so much that he had a jury trial, it's the fact that he's

1 convicted. I mean, even after a plea, they can be remanded, if
2 they plead guilty.

3 *THE COURT:* Right. But obviously most of the time
4 that doesn't occur.

5 *MS. ULRICH:* It doesn't occur.

6 *THE COURT:* And that's really on motion of the
7 prosecutor. But there's a motion here of detention, and that's
8 the standard, for there to be detention following a trial.

9 *MS. ULRICH:* But unless we establish by clear and
10 convincing evidence that he's not a risk of flight or danger to
11 the community, and that's what I've offered.

12 *THE COURT:* And obviously you convinced, I believe it
13 was Judge Carlson of that pretrial, but circumstances are now
14 changed, and now we have somebody who has been lawfully
15 convicted.

16 *MS. TAYLOR:* Your Honor, just so the record is clear,
17 the standard that Ms. Ulrich is articulating is not the
18 standard, and I can read the entire section into the record if
19 that's necessary.

20 But, you know, in order for Mr. Heath to be released,
21 either the court has to find that there's a substantial
22 likelihood that a motion for acquittal or a new trial will be
23 granted or the attorney for the government has to recommend
24 that no sentence of imprisonment is going to be imposed, and,
25 and the court has to find by clear and convincing evidence that

1 the defendant is not likely to flee or pose a danger to the
2 community.

3 So it can't just be a clear and convincing finding
4 that he's not likely to flee. The government would have to
5 recommend that we're not going to seek a sentence of
6 imprisonment, and the court would have to make that clear and
7 convincing finding because he's been found guilty of counts
8 that call for a sentence of up to life imprisonment and a
9 controlled substance offense with a ten-year maximum or more.
10 That's what that section calls for.

11 *MS. ULRICH:* Your Honor has made the ruling. I'm not
12 going to sit here and fight over it. But, you know, that would
13 mean everybody that's convicted would be detained that's going
14 to jail, and that doesn't happen. That tells me the court has
15 some discretion. I just had a trial in March where Judge Rambo
16 released a gentleman who was convicted right after trial, and
17 he's not facing a probationary sentence, he's facing jail time.

18 *THE COURT:* I appreciate what you're saying, and I
19 know that there are instances when the government doesn't
20 object. And maybe that's what happened in the case that --

21 *MS. ULRICH:* No, the government wanted him detained.

22 *THE COURT:* All right. Well, without knowing the
23 circumstances of that case, I'm just going to assume that Judge
24 Rambo exercised good judgment under all of the circumstances.

25 *MS. ULRICH:* She did.

1 *THE COURT:* But I think in this case, everything
2 points to detention. And if it will help you, we'll work with
3 you on the sentencing date. The proposed date is August 16th,
4 but if you want to move that up and we can accomplish that for
5 you, we'll make that happen.

6 *MS. ULRICH:* Just for the record, and I just want to
7 put this on the record in case -- to preserve it. I'm moving
8 for judgment of acquittal notwithstanding the verdict on
9 possession in furtherance of -- possession of the firearm in
10 furtherance of drug trafficking.

11 And I do that because I think then we don't have to do
12 post-trials on sufficiency. Just as a cautionary, I just want
13 to put that I am moving for a judgment of acquittal
14 notwithstanding the verdict on the possession of the firearm in
15 furtherance of drug trafficking.

16 *THE COURT:* Okay. Are you going to supplement that
17 with any sort of written --

18 *MS. ULRICH:* Well, I guess if the court is not going
19 to rule on it, then I probably would have to do post-trials.

20 *THE COURT:* I'm happy to rule on it now, unless you're
21 telling me you have a submission that you want to make.

22 *MS. ULRICH:* No, I'm expecting you to rule on it now,
23 actually.

24 *THE COURT:* The motion is denied. All right. Is
25 there anything else for the record?

1 MS. TAYLOR: Not from the government, Your Honor.

2 Thank you.

3 THE COURT: Ms. Ulrich?

4 MS. ULRICH: I have nothing else.

5 THE COURT: All right. Thank you, counsel.

6 MS. TAYLOR: Thank you, Your Honor.

7 *(Whereupon, the proceedings were adjourned at 11:45 a.m.)*

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1 CERTIFICATE OF OFFICIAL COURT REPORTER

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4 I, Lori A. Shuey, Federal Certified Realtime Reporter, in
5 and for the United States District Court for the Middle
6 District of Pennsylvania, do hereby certify that pursuant to
7 Section 753, Title 28, United States Code, that the foregoing
8 is a true and correct transcript of the stenographically
9 reported proceedings held in the above-captioned matter and
10 that the transcript page format is in conformance with the
11 regulations of the Judicial Conference of the United States.

12 Dated in Harrisburg, Pennsylvania, this 18th day of
13 December, 2017.

14
15 /s/ Lori A. Shuey

16 Lori A. Shuey
17 Federal Certified Realtime Reporter
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